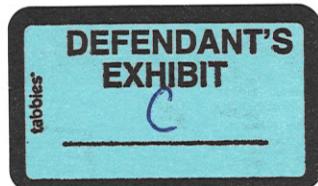


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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KEVIN MICHAEL BROPHY, JR.,) Case No. 8:17-cv-01885-CJC-JPR
an individual,)

Plaintiff,) U.S. District Judge

Hon. Cormac J. Carney

U.S. District Judge

V.

**DECLARATION OF DR. SETH
PLANCHER, M.D., IN SUPPORT
OF EX PARTE APPLICATION BY
DEFENDANTS TO CONTINUE
TRIAL AND PRETRIAL
CONFERENCE DATES, AND
RELATED DEADLINES**

Complaint filed: 10/26/17

Pre-Trial Conf.: 10/8/21

Trial Date: 10/26/21

I, Dr. Seth Plancher, M.D., declare:

1. I am the obstetrician-gynecologist for Belcalis Almanzar, a defendant in this action, and have served as such during her recent pregnancy. I conduct my practice with Garden City Obstetrics and Gynecology, P.C.,

1 located in Garden City, NY. I have been Board Certified in obstetrics and
2 gynecology since 1997 by the American Board of Obstetrics & Gynecology
3 and have also served as an adjunct assistant professor in the Department of
4 Obstetrics and Gynecology at NYU Long Island School of Medicine. I am a
5 graduate of the Warren Alpert Medical School of Brown University and did
6 my residency at Winthrop-University Hospital.

7 2. I submit this Declaration in support of the ex parte application by
8 Defendants for a continuance of the trial and pretrial conference dates, and related
9 deadlines, set forth in the Court's Order (Docket No. 140) dated September 8,
10 2021. (I am advised by Alan Dowling, counsel for the defendants in this
11 action, that on September 8, 2021, the Court issued an order providing for a
12 jury trial to commence, in Santa Ana, California, on October 26, 2021, with
13 an estimated duration of approximately one week.) I know all matters of fact
14 set forth herein to be true of my own personal knowledge, except those stated
15 upon information and belief, and I believe those to be true. If called as a witness,
16 I could and would testify competently hereto.

17 3. Ms. Almanzar gave birth to a son on September 4, 2021. She
18 arranged for the child's birth to take place in New York, where she is presently
19 located, so that she could be near, and have the support and assistance from,
20 her immediate and extended families, as well as her physicians, during the
21 period following her pregnancy and the birth of her son.

22 4. Ms. Almanzar is presently in what is generally termed the
23 postpartum period—the period of days, weeks and months immediately
24 following childbirth. The postpartum period can be divided into several distinct
25 stages: the initial or acute phase in the first hours after childbirth; the subacute
26 postpartum period, which lasts two to six weeks; and the delayed postpartum
27 period, which can last up to eight months. In that context, Ms. Almanzar is
28

1 presently in her subacute postpartum period, and at the time of the trial in this
2 action, as presently scheduled, in late October 2021, would likely just be
3 transitioning from that phase into her the start of her delayed postpartum period.

4 5. In the subacute postpartum period, a large majority of women report
5 at least one significant health problem. Long-term health problems (persisting
6 after the delayed postpartum period) are reported by a significant number of
7 women, as well. Included among the things that can occur to a mother during the
8 subacute postpartum period are a significant risk of deep vein thrombosis (DVT),
9 the formulation of one or more blood clots, most commonly in the legs or pelvis,
10 which could result in a pulmonary embolism. For that reason, it is strongly advised
11 to avoid prolonged periods of immobility, such as would result from extended air
12 travel or having to remain seated for extended periods of time, for example in a
13 courtroom during a trial. There are also risks of postpartum infections and urinary
14 incontinence that could lead to long term complications, as well as inconvenience
15 in the short term. The breast-feeding of Ms. Almanzar's newborn child will
16 require frequent and sometimes time-consuming attention and may give rise to
17 difficulties that need to be addressed. Maternal sleep is often disturbed by the
18 newborn child's need to be fed every few hours, including during the night, which
19 can in turn impact the mother's cognition, attention span, ability to stay awake
20 and alert, and her moods (already affected by hormonal changes) during the
21 daytime hours. Developments such as postpartum depression and stress disorder
22 occur in a significant percentage of mothers of newborns. The American College
23 of Obstetricians and Gynecologists, of which I am a Fellow, recognizes the
24 postpartum period (sometimes referred to as the "fourth trimester") as critical for
25 women and their infants, and recommends that all women have regular contact
26 with their obstetrician, and their child's pediatrician, with special care as needed,
27 at several points during the twelve weeks following childbirth, to address the

1 mother's mood and emotional well-being, physical recovery after childbirth,
2 infant feeding, preventive health care and maintenance, and the health and
3 development of the child, among other things.

4 6. It is particularly important, during the subacute postpartum period,
5 for the mother to remain in close proximity to the child, not only to address its
6 needs but also to observe any potential problems that need to be addressed
7 immediately.

8 7. The delayed postpartum period follows the subacute postpartum
9 period and can last up to six months. A variety of childbirth complications such
10 as fecal or urinary incontinence may resolve only slowly during this period, there
11 are ongoing hormonal readjustments taking place within the mother's body, and
12 long-term health problems are reported by approximately a third of women.

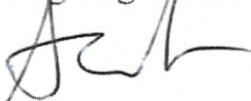
13 8. As much as I would advise against the mother of a newborn engaging
14 in extended or stressful travel during the subacute post-partum period in
15 particular, I would absolutely advise against subjecting a newborn child to the
16 stress of long-distance air travel, not to mention the exposure to potential disease
17 or infection from being in enclosed public spaces among strangers, and all the
18 more so during the present extended and ongoing Covid-19 pandemic and the
19 reported proliferation of certain pediatric respiratory diseases.

21 9. As Ms. Almanzar and her newborn child will be subject to all of the
22 childbirth-related circumstances described above during the crucial period from
23 now through the end of October, 2021 and very likely for a period of weeks (if
24 not months) beyond then, I believe, for medical reasons, it would be highly
25 inadvisable for them to undertake extensive travel (especially air travel) and to
26 have to stay in a strange temporary environment far away from home, their
27 physicians and their extended family. I likewise believe it would be inadvisable,
28 during that time, for Ms. Almanzar to be physically separated for long periods

1 from her newborn and subjected to the extraordinary physical, psychological and
2 emotional stress of preparing for and participating in a lengthy federal court trial.

3 Executed at Garden City, NY, on September 13, 2021.

4 I declare under penalty of perjury under the laws of the United States of
5 America and the State of New York that the foregoing is true and correct.

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8 DR. SETH PLANCHER, M.D.
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